

**FIRST AMENDMENT
TO THE 2009
VILLAGES OF LAKE-SUMTER
IMPACT FEE AGREEMENT**

THIS FIRST AMENDMENT TO THE 2009 VILLAGE OF LAKE-SUMTER IMPACT FEE AGREEMENT is made and entered into this ____ day of _____, 2010 ("Effective Date"), by and between THE VILLAGES OF LAKE-SUMTER, INC, a Florida corporation, whose address is 1020 Lake Sumter Landing, The Villages, Florida, 32162 and SUMTER COUNTY, a political subdivision of the State of Florida, whose address is 910 North Main Street, Bushnell, Florida 33513.

RECITALS

WHEREAS, on or about February 10, 2009, Sumter County, (the "County"), entered into an Impact Fee Agreement with The Villages of Lake-Sumter, Inc. (the "Agreement"), and;

WHEREAS, on or about June 14, 2009, Sumter County adopted Ordinance No. 2009-14, implementing a consumption based road impact fee system which funds one "Sumter County Road Construction Impact Fee Trust Account" as created and described therein, and;

WHEREAS, on or about May 25, 2010, Sumter County adopted a resolution dissolving the "District 1", "District 2" and "Countywide" impact fee districts and effecting the transfer of the amounts of the revenue accounts of those dissolved districts to the Sumter County Road Construction Impact Fee Account created by Ordinance No. 2009-14, and;

WHEREAS, it is necessary to amend the Agreement in order to reconcile it with the Ordinance and allow for proper accounting of road impact fee revenues and credits.

THEREFORE, the parties hereto, being fully advised of the terms herein, and having been advised by legal counsel, do hereby agree to amend the Agreement by this writing (the "Amendment") and state the following:

1. That the "WHEREAS" recitals above are hereby acknowledged as true and accurate and are incorporated as if stated herein.
2. **As to the Original Agreement:**

Section A 2 (A) (4) (b) shall be stricken in its entirety and restated to read as follows:

(b) Construction of the Project. The County agrees that the Developer shall be entitled to impact fee credit and reimbursement based upon the actual cost of construction of Off-Site Improvements funded by the Developer pursuant to this Agreement, however, in no event shall the Developer be entitled to any credit or reimbursements in excess of 120% of the estimated construction costs of \$24,089,000 as prepared by FDOT and set forth in the FDOT SR35/Hwy 301

Agreement, unless the Project is competitively bid, in which case, the Developer shall be entitled to impact fee credit and reimbursement in the amount of the actual cost of constructing the Project. Also, unless otherwise specifically allowed in this Agreement, in no event shall the Developer be entitled to any reimbursement other than funds eligible for reimbursement under the terms of this Agreement which are on deposit in the Sumter County Road Construction District Impact Fee Trust Account created by Ordinance No. 2009-14. For purposes of this Agreement, "Off-Site Improvements" shall mean road improvements located outside of the boundaries of a Road Impact Construction which are required by the County in order to serve External Trips, but not including Access Improvements.

Section A 2 (A) (4) (c) shall be stricken in its entirety and restated to read as follows:

Records and Impact Fee Credits. All Transportation Impact fees in the Sumter County Road Construction District Impact Fee Trust Account created by Ordinance No. 2009-14 received by the County since December 18, 2001 shall be available for credit to the Developer, as earned through the formula described herein, and also for reimbursement to the Developer to the extent of any funds on deposit in the Sumter County Road Construction District Impact Fee Trust Account created by Ordinance No. 2009-14. Sumter County shall not be obligated to reimburse the Developer from any other source other than the Sumter County Road Construction District Impact Fee Trust Account created by Ordinance No. 2009-14. The Developer may apply for a credit and/or reimbursement from the Road Construction Transportation Impact Fees collected by the County based upon the percentage of the work completed by delivering to the County a certification by a third party licensed Project Engineer indicating the percentage of work completed through the date of certification, which credit and/or reimbursement shall be available to the Developer upon inspection, approval and acceptance by the County. During construction, such impact fee credit and reimbursement shall accrue and be paid to the Developer in an amount equal to 90% of the cost of each portion of the Project completed. Upon completion of the Project, 100% of the cost associated with the Project shall be available for credit and/or reimbursement to the Developer upon inspection, approval and acceptance by FDOT and Sumter County. The Developer shall keep or provide for retention of adequate records and supporting documentation which concern or reflect total Project cost of the Off-Site Improvements to be constructed. This information will be available to the County, or its duly authorized agent or representative, for audit, inspection or copying, for a minimum of five (5) years from the termination of this Agreement.

Sections B 1 (C) (3) and B 1(C) (3) (a) shall be stricken in their entirety and restated to read as follows:

(3) Impact Fee Credits, Reimbursement from Impact Fees, and Records. Subject to the limitations set forth in Section 1(C) (2) above, the Developer shall be entitled to a combination of impact fee credits, and reimbursement from all impact fees paid pursuant to Ordinance No. 2009-14 paid within the Villages of Wildwood DRI, the Villages of Sumter DRI, and the Tri-County Villages of

Sumter DRI, together with any additions thereto (collectively the “DRI’s”) and also those transportation impact fees paid by the Developer outside of the DRI’s to the extent such impact fees have not previously been reimbursed to the Developer or utilized as credits against any Sumter County Transportation Impact Fees.

(a) Records. The Developer may apply for a credit and/or reimbursement from the Countywide Impact Fees collected pursuant to Ordinance No. 2009-14 based upon the percentage of the work completed by delivering to the County a certification by a third party licensed Project Engineer indicating the percentage of work completed through the date of certification, which credit shall be available to the Developer upon inspection, approval and acceptance by the County. The Developer will pay Transportation Impact Fees as set forth in *Schedule One* until the County’s first approval of a portion of the credit entitlement under this Agreement. During construction, such impact fee credit shall accrue, and/or reimbursement paid to the Developer in an amount equal to 90% of the cost of the Project completed. Upon completion of the Project, 100% of the cost associated shall be available for credit and/or reimbursement to the Developer upon inspection, approval and acceptance by the County. Transportation Impact Fees paid by the Developer to the County before the date the Developer first establishes impact fee credits shall be rebated to the Developer to the extent of the Developer’s impact fee credit entitlement on a monthly basis. Notwithstanding the fact that the Developer has established an impact fee credit balance, the Developer shall continue to make payment for Transportation Impact Fees on or before the issuance of building permits. If the Developer has not previously assigned its impact fee credits pursuant to Section 1(C) (3) (b) below, within fifteen (15) days after the end of the month, the County shall rebate to the Developer an amount equal to previous month’s end balance of impact fees paid by the Developer, provided such rebate amount does not exceed the existing credit entitlement available to the Developer. The amount of each monthly rebate shall be deducted from the credit entitlement available to the Developer. The County shall deliver to the Developer monthly reports indicating all activity on the account during the month, and the month end credit balance. The Developer shall keep or provide for retention of adequate records and supporting documentation which concern or reflect total Project cost. This information will be available to the County, or its duly authorized agent or representative, for audit, inspection or copying, for a minimum of five (5) years from the termination of this Agreement.

Section B 2 (C) (2) shall be stricken in its entirety and restated to read as follows:

(2) Construction of the Project. The County agrees that the Developer shall be entitled to impact fee credit reimbursement based upon the actual cost of design and construction of Off–Site Improvements funded by the Developer pursuant to this Agreement, however, in no event shall the Developer be entitled to any credit or reimbursement in excess of 120% of the estimated construction costs of each

component of the Project set forth in Exhibits “F” and “G” respectively, unless that component of the Project is competitively bid, in which case, the Developer shall be entitled to impact fee credit and reimbursement in the amount of the actual cost of constructing such component of the Project. Also, in no event shall the Developer be entitled to funds other than those eligible for reimbursement and on deposit in the Sumter County Road Construction District Impact Fee Trust Account created by Ordinance No. 2009-14. For purposes of this Agreement, “Off-Site Improvements” shall mean road improvements located outside of the boundaries of a Road Impact Construction which are required by the County in order to serve External Trips, but not including Access Improvements.

Section B 2 (C) (3) shall be stricken in its entirety and restated to read as follows:

(3) Impact Fee Credits, Reimbursement from Impact Fees, and Records. Subject to the limitations set forth in Section 2(C)(2) above, the Developer shall be entitled to a combination of impact fee credits, and reimbursement from all Sumter County Transportation Impact Fees paid within the Villages of Wildwood DRI, the Villages of Sumter DRI, and the Tri-County Villages of Sumter DRI, together with any additions thereto (collectively the “DRI’s”) and also those transportation impact fees paid by the Developer outside of the DRI’s but within the remainder of Sumter County, including incorporated and unincorporated areas, to the extent such impact fees have not been reimbursed to the Developer or utilized as credits against any Sumter County Road Impact Fees.

Section B 2 (C) (3) (a) shall be stricken in its entirety and restated to read as follows:

(a) Records. The Developer may apply for a credit and/or reimbursement from the Countywide Impact Fees collected pursuant to Ordinance No. 2009-14 based upon the percentage of the work completed by delivering to the County a certification by a third party licensed Project Engineer indicating the percentage of work completed through the date of certification, which credit shall be available to the Developer upon inspection, approval and acceptance by the County. The Developer will pay Transportation Impact Fees pursuant to the currently effective impact fee ordinance until the County’s first approval of a portion of the credit entitlement under this Agreement. During construction, such impact fee credit shall accrue, and/or reimbursement paid to the Developer in an amount equal to 90% of the cost of the Project completed. Upon completion of the Project, 100% of the cost associated shall be available for credit and/or reimbursement to the Developer upon inspection, approval and acceptance by the County. Transportation Impact Fees paid by the Developer to the County before the date the Developer first establishes impact fee credits shall be rebated to the Developer to the extent of the Developer’s impact fee credit entitlement on a monthly basis. Notwithstanding the fact that the Developer has established an impact fee credit balance, the Developer shall continue to make payment for Transportation Impact Fees on or before the issuance of building permits. If the Developer has not previously assigned its impact fee credits pursuant to Section 2(C)(4) below, within fifteen (15) days after the end of each month, the County shall rebate to the Developer monthly reports indicating all activity on the account

during the month, and the month end credit balance. The Developer shall keep or provide for retention of adequate records and supporting documentation which concern or reflect total Project cost. This information will be available to the County, or its duly authorized agent or representative, for audit, inspection or copying, for a minimum of five (5) years from the termination of the Agreement.

3. Any provision of the Agreement not replaced or contradicted by this Amendment remains in full force and effect. In the event of any conflict between the terms of this Amendment and the Agreement, the terms of this Amendment shall prevail.

Dated this ____th day of May 2010.

ATTEST:
GLORIA HAYWARD, CLERK
OF COURT, SUMTER COUNTY

Deputy Clerk

SUMTER COUNTY

Honorable Doug Gilpin, Chairman
Board of County Commissioners

WITNESS: _____

THE VILLAGES OF LAKE-SUMTER,
INC.

_____, its _____